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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY G. COSTANZA,

Defendant.

Criminal No: L:22-PO-000702-SAH

UNITED STATES' RESPONSE TO DEFENDANT'S MOTION TO DISMISS

COMES NOW, the United States of America, by and through its attorney, Christyne M. Martens, Assistant United States Attorney for the District of Wyoming, and respectfully submits the following response to Defendant's Amended Motion to Dismiss and Brief in Support of Motion to Dismiss. (Docs. 9, 10 and 11). The government requests that motion be denied.

I. BACKGROUND

On October 21, 2022, a violation notice was filed, charging the Defendant with Unsafe Operations: Operating a motor vehicle without due care or at a speed greater than that which is reasonable and prudent considering wildlife, traffic, weather, road and light conditions, and road character (in violation of 36 CFR § 4.22(b)(1)). (Doc. 1). On March 16, 2023, the Defendant

appeared and pleaded not guilty. (Doc. 8). The Court set an in-person Bench Trial for April 25, 2023. (*Id.*).

On April 14, 2023, the Defendant moved this Court to dismiss his citation. (Doc. 9-11). The Defendant correctly states that if the facts are contested, then disposition of this case by motion is inappropriate. (Doc. 11 at 3). He argues that the facts are uncontested. (*Id.* at 2-4). But, to contest that facts as set forth in the probable cause statement supporting the violation, he has filed a declaration. (*Id.* at 15-18). Thus, his own filing demonstrates that there is a factual dispute that must be resolved at trial.

Furthermore, the Government disputes the Defendant's characterization of the facts. The Government contends that the Defendant was driving late at night in Grand Teton National Park and that he admitted he was traveling 10 to 15 miles per hour over the speed limit at the time he struck and killed three bison. The Government intends to introduce the body camera footage with the Defendant's statements at trial. Thus, this Court must determine the meaning of the statements for itself when the general issue is tried before it.

Because the facts are contested, this case should not be resolved a pretrial motion.

II. CONCLUSION

For the reasons set forth above, the Defendant's motion should be denied, and this matter should proceed to trial as scheduled.

DATED this 18th day of April 2023.

Respectfully submitted,

NICHOLAS VASSALLO
United States Attorney

By: /s/ Christyne M. Martens
CHRISTYNE M. MARTENS
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on 18th day of April 2023 the foregoing **Response** was served upon the Defendant by electronically filing this document with the court, and by depositing same, postage prepaid, in the United States Mail addressed to:

Gregory G Costanza
2301 Stampede Ave.
Cody, WY 82414

/s/ Amanda R. Hudson
UNITED STATES ATTORNEY'S OFFICE